IN THE HIGH COURT OF DELHI AT NEW DELHI

Crl.M.C.No.788/2005

M/s. Shriram Centre & Ors. ..... Petitioners
! through: Mr. R.N.Mittal, Sr. Advocate with
Mr. Dharmender Arya, Advocate

VERSUS

$ State & Ors. ..... Respondents
^ through: Mr. Anil Soni, Advocate
None for R-2

% **D**ATE OF DECISION: 07-09-2007

CORAM:

* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment? Y

2. To be referred to the Reporter or not? Y

3. Whether judgment should be reported in Digest? Y

: PRADEEP NANDRAJOG, J.(Oral)

1. At the outset, I may note that petitioner No.4 has died. Thus, qua petitioner No.4 the complaint has abated.

2. Notwithstanding various contentions urged in the memorandum of the petition filed by the petitioners invoking Section 482 Cr.P.C. praying that complaint lodged under Section 22 (A) of the Minimum Wages Act 1948 by Babu Lal, the Labour Inspector be quashed, at the hearing today, learned counsel for the petitioner has pressed the petition on 2 counts.

3. It is firstly alleged that a perusal of the complaint does not establish as to what is the case against which accused.

4. Second contention urged is that the complaint makes gibberish reading, i.e. is unintelligible. A printed proforma has been

used to fill up names, dates etc. Exact nature of the complaint is not spelt out for the reason certain paragraphs have been '√' probably indicating that complaint relates to said alleged defaults.

5. To appreciate the submissions made by learned counsel for the petitioners, it may be noted that in the complaint, accused are described as under :-

'I. Dr. Bharat Ram, Chairman

II Smt. Panna Bharat Ram, President

III Sh. Vinay Bharat Ram, Trusty

IV Sh.R.S.Kanwar, Manager Admn.

M/s. Indian National Theatre Trust,
4 Safdar Hashmi Marg
New Delhi

Shri Ram Centre for Performing Arts.'

6. It may be noted that whereas serial No.(I) to (IV) has been assigned to the first 4 names set out as accused in the complaint, no serial number has been assigned against the juristic entities described as accused.

7. Question arises, whether first 4 accused were made liable for the stated default of juristic entity No.(I) or juristic entity No.(2)?

8. The complaint does not disclose so.

9. The complaint does not disclose whether Indian National Theatre Trust is the defaulting party or Shri Ram Centre for Performing Arts is the defaulting party.

10. Para 3 of the complaint reads as under :-

“3. That the above named accused employer for the defined under section 2(e) of the minimum

wages Act 1948 for the work National Theater & Performing Arts All shops & Other Estt.'

11. I fail to understand as what is intended to be conveyed by para 3 of the complaint.

12. In para 5 of the complaint it is recorded as under :-

> "5. That the above named accused person is responsible for the conduct of its business at time of commission of offences."

13. Which accused person is responsible for the conduct of which business has not been brought out in the complaint.

14. I note that para 3, para 4 and para 6 of the complaint has blank spaces some of which have been filled up in hand.

15. The complaint shows that a proforma complaint has been prepared by the department with blank spaces used to fill up in hand what complainant intends to convey.

16. As noted here-in-above, this method of filing complaints has resulted in unintelligible averments emanating from the complaint.

17. In its decision dated 13.11.2006 in Crl. A. NO.1169/2006 *Gobind T. Sahani Vs. Dty. Commissioner (South)& Ors.* Supreme Court deprecated filing of such kinds of complaints by observing as under :-

> " It furthermore appears that the complaint petitions are being filed on prescribed proforma and merely the blanks are being filled up or unnecessary averments are being scored out. While the State indisputably can bring the fact of commission of offence provided for in the penal statutes to the notice of the Magistrate, it is expected that having regard to the provisions contained in Section 200 of the Code of Criminal Procedure that public servants are not required to affirm any affidavit in support of the complaint petition, it is expected that the complaint petition would be filed upon due application of mind

and cognizance would also be taken by the learned Judge similarly.

Having regard to the facts and circumstances of this case, we are of the opinion that the cognizance taken in the complaint petition did not disclose commission of any offence, in that view of the matter, the order taking cognizance of the offence is quashed. The impugned judgment is set aside and the application is allowed."

18. Taking guidance from the afore-noted observations of the Supreme Court, I dispose of petition quashing the complaint No.MW/431/3 as also the summoning order dated 17.6.2003.

19. No costs.

September 07, 2007 **PRADEEP NANDRAJOG, J.**
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